IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

Bail Appl..No. 3907 of 2007()

CRIME NO. 254/07 OF VADANAPPILLY POLICE STASTION

PETITIONERS

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1. LALSON, AGED 69, S/O. UNNI,
   KURUPPASSERI HOUSE, P.O.KUNDALIYOOR,
   THRISSUR DISTRICT.

2. PRASAD, S/O. LALSON,
   KURUPPASSERI HOUSE, P.O.KUNDALIYOOR,
   THRISSUR DISTRICT.

BY ADV. SRI.P.RAMACHANDRAN

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
   VADANAPPILLY POLICE STATION, VADANAPPILLY,
   THRISSUR DISTRICT.

BY PUBLIC PROSECUTOR SRI. P.N. SUKUMARAN.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3907 OF 2007

Dated this the 3rd day of July, 2007

ORDER

Application for anticipatory bail. The petitioners – father and son, face allegations, inter alia, under Sec.326 of the IPC. The crux of the allegations is that on 7/6/07 the petitioners allegedly attacked the brother of the 1st accused with wooden sticks and caused injuries including fracture of the fibula. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the victim and the petitioners are close relatives. There were certain disputes between the parties consequent to the commission of suicide by the son-in-law of the 1st accused. He had left a suicide note in which allegations were raised against the de facto complainant as well as his son-in-law. At the time

of cremation, there were certain quarrels and exchange of words. Only to wreak vengeance against the petitioners, a false complaint has been filed by the de facto complainant.

3. The learned Public Prosecutor opposes the application. The allegations are serious. Investigation is not complete. There are no circumstances justifying the invocation of the discretion under Sec.438 of the Cr.P.C., submits the learned Public Prosecutor.

4. I find merit in the opposition by the learned Public Prosecutor. This, I am satisfied, is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigating Officer or the learned Magistrate having jurisdiction. They must then seek regular bail in the ordinary course. I have no reason to assume that if the petitioners surrender before the Investigating Officer or the learned Magistrate having jurisdiction and seek bail in the ordinary course, the learned Magistrate would not consider the application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police**

(2003 (1) KLT 339).

5. The learned counsel for the petitioner submits that about the same incident another crime has been registered. The learned Public Prosecutor accepts the said submission and submits that in the counter case only the offence under Sec.324 of the IPC is established.

6. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioners surrender before the Investigating Officer or the learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge